

# House File 695 - Introduced

HOUSE FILE \_\_\_\_\_  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 170)

(COMPANION TO LSB 1471SV BY  
COMMITTEE ON JUDICIARY)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to civil actions including certain limitations on  
2 actions, judgments, and executions and including actions  
3 relating to the foreclosure of real estate mortgages, and  
4 providing effective date and applicability provisions.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
6 TLSB 1471HV 83  
7 rh/rj/5

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1 1 Section 1. NEW SECTION. 614.18A JUDGMENT AND DECREE  
1 2 AFFECTING REAL PROPERTY.  
1 3 In an action in which the court had jurisdiction of the  
1 4 aggrieved party, a motion or other legal proceeding attacking  
1 5 the validity of the judgment or decree based on noncompliance  
1 6 with the requirements of rule of civil procedure 1.972 shall  
1 7 not affect the interests of any purchaser or mortgagee for  
1 8 value of the real property involved unless the motion or  
1 9 proceeding is initiated within thirty days after the recording  
1 10 of the sheriff's deed or within ninety days after the filing  
1 11 of a judgment or decree not providing for the issuance of a  
1 12 sheriff's deed.  
1 13 Sec. 2. Section 615.1, subsection 1, Code 2009, is amended  
1 14 to read as follows:  
1 15 1. After the expiration of a period of two years from the  
1 16 date of entry of judgment, exclusive of any time during which  
1 17 execution on the judgment was stayed pending a bankruptcy  
1 18 action or order of court, a judgment entered in ~~either any~~ of  
1 19 the following actions shall be null and void, all liens shall  
1 20 be extinguished, and no execution shall be issued ~~for any~~  
1 21 ~~purpose other than except~~ as a setoff or counterclaim:  
1 22 a. (1) An For a real estate mortgage, deed of trust, or  
1 23 real estate contract executed prior to July 1, 2009, an action  
1 24 for the foreclosure of a the real estate mortgage, deed of  
1 25 trust, or real estate contract upon property which at the time  
1 26 of judgment the foreclosure is commenced is either used for an  
1 27 agricultural purpose as defined in section 535.13 or as a  
1 28 one-family or two-family dwelling which is the residence of  
1 29 the mortgagor.  
1 30 (2) For a real estate mortgage, deed of trust, or real  
1 31 estate contract executed on or after July 1, 2009, an action  
1 32 for the foreclosure of the real estate mortgage, deed of  
1 33 trust, or real estate contract upon property which at the time  
1 34 of the execution of the mortgage, deed, or contract is either  
1 35 used for, or is being acquired for, an agricultural purpose as  
2 1 defined in section 535.13 or as a one-family or two-family  
2 2 dwelling which is the residence of the mortgagor.  
2 3 b. An action on a claim for rent.  
2 4 Sec. 3. Section 626.81, Code 2009, is amended to read as  
2 5 follows:  
2 6 626.81 SALE POSTPONED.  
2 7 When there are no bidders, or when the amount offered is  
2 8 grossly inadequate, ~~or~~ when from any cause the sale is  
2 9 prevented from taking place on the day fixed, when requested  
2 10 by the judgment creditor, or when the parties so agree, the  
2 11 officer may postpone the sale for not more than three days  
2 12 without being required to give any further notice thereof,  
2 13 which postponement shall be publicly announced at the time the

2 14 sale was to have been made, but not more than two such  
2 15 adjournments of not more than sixty days in the aggregate  
2 16 shall be made, except by agreement of the parties in writing  
2 17 and made a part of the return upon the execution.  
2 18 Sec. 4. NEW SECTION. 654.1A MAINTENANCE OF MORTGAGOR  
2 19 PROTECTIONS == DISCONTINUATION OF OCCUPATION.  
2 20 For purposes of sections 615.1, 615.3, 628.28, 654.2D,  
2 21 654.20, 654.21, and 654.26, property shall be deemed the  
2 22 residence of and occupied by the mortgagor where occupation  
2 23 has ceased because of the effects of natural disaster, injury  
2 24 to the property not willfully caused by the mortgagor, or the  
2 25 mortgagor's state military service or federal military service  
2 26 as those terms are defined in section 29A.1.  
2 27 Sec. 5. NEW SECTION. 654.4A SERVICE OF PROCESS == IN REM  
2 28 RELIEF.  
2 29 In addition to any other form of service authorized by law,  
2 30 where in rem relief is the only relief requested in a  
2 31 foreclosure action against either a party or a person to be  
2 32 served with a notice pursuant to section 654.15B, all of the  
2 33 following shall apply:  
2 34 1. If the person to be served is a judgment creditor,  
2 35 service may be made by certified mail, with proof of delivery,  
3 1 to the judgment creditor's registered agent or to the judgment  
3 2 creditor at the judgment creditor's principal place of  
3 3 business in the state where the business is organized, as  
3 4 indicated by the records in the office of the secretary of  
3 5 state, or to the judgment creditor at the last address  
3 6 indicated in the case in which the judgment was entered.  
3 7 2. Upon affidavit that service cannot be made on a  
3 8 judgment creditor either pursuant to subsection 1 or by  
3 9 personal service in this state, service may be made by  
3 10 certified mail, with proof of delivery, on the judgment  
3 11 creditor's attorney of record if that attorney is a practicing  
3 12 attorney in this state, along with a copy of this section, and  
3 13 a payment of ten dollars. The attorney shall forward the  
3 14 notice by ordinary mail to the judgment creditor's last known  
3 15 address but the attorney shall have no further duties under  
3 16 this section with respect to the notice.  
3 17 3. An attorney who agrees to accept service on behalf of a  
3 18 judgment creditor may charge a reasonable fee, not to exceed  
3 19 ten dollars, for accepting service.  
3 20 4. If a person, other than a governmental taxing unit, is  
3 21 an interested person with respect to a decedent's estate in  
3 22 probate, the person may be named generally as a person  
3 23 interested in the decedent's estate and service of process  
3 24 shall be made by personal service or certified mail, along  
3 25 with proof of delivery, on the attorney for the personal  
3 26 representative. If the estate is probated in this state and a  
3 27 person has requested notice pursuant to section 633.42, the  
3 28 mortgagee shall also serve that person by ordinary mail at the  
3 29 address specified in the request for notice. A person so  
3 30 served may intervene as a named defendant as a matter of  
3 31 right.  
3 32 5. If a defendant, other than a governmental taxing unit,  
3 33 is a person whose identity is not reasonably ascertainable,  
3 34 and the person has an interest in a decedent's estate not  
3 35 probated in this state, such person may be named generally as  
4 1 a person with an interest in the decedent's estate and service  
4 2 of process shall be made by publication unless the mortgagee  
4 3 has actual notice that the decedent's estate is probated in  
4 4 another state. A person so served may intervene as a named  
4 5 defendant as a matter of right.  
4 6 Sec. 6. NEW SECTION. 654.4B ACCELERATION OF INDEBTEDNESS  
4 7 == NOTICE OF MORTGAGE MEDIATION ASSISTANCE.  
4 8 1. Prior to commencing a foreclosure on the accelerated  
4 9 balance of a mortgage loan and after termination of any  
4 10 applicable cure period, including but not limited to those  
4 11 provided in section 654.2A or 654.2D, a creditor shall give  
4 12 the borrower a fourteen-day demand for payment of the  
4 13 accelerated balance to qualify for an award of attorney fees  
4 14 under section 625.25 on the accelerated balance.  
4 15 2. a. Prior to commencing an action under this chapter on  
4 16 a one-family or two-family dwelling that is the residence of  
4 17 the owner, the creditor shall inform the owner of the  
4 18 availability of counseling and mediation on a form as the  
4 19 attorney general may prescribe. The notice required by this  
4 20 section shall be mailed by ordinary mail to the owner along  
4 21 with the notice of acceleration or other initial communication  
4 22 from the attorney representing the creditor in the action, and  
4 23 shall also be served on the owner with the original notice and  
4 24 petition seeking foreclosure. If, following application by

4 25 the owner or on its own motion, the court finds that the  
4 26 notice was not served on the owner as required by this  
4 27 subsection and that the owner desires counseling or mediation,  
4 28 the court shall grant to the owner a delay of the sheriff's  
4 29 sale or, in the event the sheriff's sale has occurred and the  
4 30 mortgagee or its affiliate was the winning bidder at the  
4 31 sheriff's sale, a delay of the recording of the sheriff's  
4 32 deed. In either case, the delay shall not exceed sixty days.  
4 33 If the affidavit of service for the original notice in the  
4 34 court file indicates that the notice required by this  
4 35 subsection was served on the owner, there shall be a  
5 1 rebuttable presumption that the notice was served as required  
5 2 by this subsection. The court may grant an application for a  
5 3 delay pursuant to this subsection ex parte only if the court  
5 4 file does not show service of the notice on the owner along  
5 5 with the original notice. Objection to the failure of the  
5 6 mortgagee to serve the notice is barred unless an application  
5 7 under this subsection is timely filed and is granted before  
5 8 the date of the sale or recording, respectively. If the court  
5 9 delays the sheriff's sale, the new sale date and time shall be  
5 10 announced orally by the sheriff at the time previously  
5 11 scheduled for sale, and the mortgagee need not republish and  
5 12 serve notice of the rescheduled sale.

5 13 b. This subsection is repealed July 1, 2011.

5 14 Sec. 7. Section 654.5, Code 2009, is amended to read as  
5 15 follows:

5 16 654.5 JUDGMENT == SALE AND REDEMPTION.

5 17 1. When a mortgage or deed of trust is foreclosed, the  
5 18 court shall do all of the following:

5 19 a. ~~render~~ Render judgment for the entire amount found to  
5 20 be due, ~~and must direct,~~

5 21 b. Direct the mortgaged property, or so much thereof as is  
5 22 necessary, to be sold to satisfy the judgment, with interest  
5 23 and costs.

5 24 c. Determine issues of title raised in the pleadings to  
5 25 establish the rights and priorities of the parties and persons  
5 26 served with notice pursuant to section 654.15B in the property  
5 27 subject to foreclosure as may be reasonably necessary to allow  
5 28 a purchaser at a sheriff's sale to obtain clear title.

5 29 2. A special execution shall issue ~~accordingly under such~~  
5 30 conditions as the decree may prescribe, and the sale under the  
5 31 special execution is subject to redemption as in cases of sale  
5 32 under general execution unless the plaintiff has elected  
5 33 foreclosure without redemption under section 654.20.

5 34 3. The clerk shall provide a copy of the decree by  
5 35 ordinary or electronic mail to all parties in the foreclosure  
6 1 proceeding and all persons served with notices under section  
6 2 654.15B.

6 3 Sec. 8. Section 654.15B, Code 2009, is amended to read as  
6 4 follows:

6 5 654.15B RIGHT TO INTERVENE == NOTICE.

6 6 A lender may serve a judgment creditor in a foreclosure  
6 7 action with notice in substantially the following form  
6 8 advising the creditor that the property that is the subject of  
6 9 the foreclosure action shall be foreclosed and describing the  
6 10 creditor's interest in the action and that unless such  
6 11 creditor intervenes in the foreclosure action such creditor  
6 12 shall lose the creditor's interest in the mortgaged property.  
6 13 Unless the creditor intervenes within thirty days of the  
6 14 service of notice, the court may adjudicate the creditor's  
6 15 rights against the property as if the creditor had been added  
6 16 as a defendant and default had been entered against the  
6 17 defendant. If a creditor cannot be located for personal  
6 18 service, the plaintiff may, at any time prior to sixty days  
6 19 before the date of trial, amend the petition as a matter of  
6 20 right to add the creditor as a defendant for service by  
6 21 publication as provided by rule. The notice prescribed by  
6 22 this section is as follows:

6 23 NOTICE OF PENDING FORECLOSURE

6 24 To: (Name and address of creditor)

6 25 Date: (Enter date)

6 26 Plaintiff (Name of foreclosing party) has filed a  
6 27 foreclosure of mortgage against the property of (titleholder)  
6 28 located at (street address of property) which is legally  
6 29 described as (legal description). This foreclosure was filed  
6 30 as (Plaintiff v. Defendant), Case # (.), in the Iowa District  
6 31 Court for (.....) County and is intended to foreclose a  
6 32 mortgage dated (date of mortgage) and recorded on (date of  
6 33 recording) in the (county recorder's office). You have an  
6 34 apparent interest in the property because (description of  
6 35 creditor's interest) of an apparent judgment lien in (short

7 1 caption of case, case number, court where judgment entered,  
7 2 and judgment date). If you desire to protect this interest,  
7 3 you have the right to intervene in the foreclosure action  
7 4 within thirty days of the service of notice by filing an  
7 5 intervention with the clerk of court in (.....) County.  
7 6 Unless you intervene in the foreclosure, the foreclosure may  
7 7 eliminate any interest you have in the property but will not  
7 8 otherwise affect your rights. If you have any questions about  
7 9 this notice, contact your attorney. Whether or not you  
7 10 intervene, the foreclosure may have certain tax consequences  
7 11 to you about which you should consult your tax advisor.

7 12 .....  
7 13 Name, address, and telephone number of attorney representing  
7 14 plaintiff (name of foreclosing party).

7 15 Sec. 9. Section 654.17, Code 2009, is amended to read as  
7 16 follows:

7 17 654.17 RECISION OF FORECLOSURE.

7 18 1. At any time prior to the recording of the sheriff's  
7 19 deed, and before the mortgagee's rights become unenforceable  
7 20 by operation of the statute of limitations, the judgment  
7 21 creditor, or the judgment creditor who is the successful  
7 22 bidder at the sheriff's sale, ~~with the written consent of the~~  
7 23 ~~mortgagor~~ may rescind the foreclosure action by filing a  
7 24 notice of recision with the clerk of court in the county in  
7 25 which the property is located along with a filing fee of fifty  
7 26 dollars. In addition, if the original loan documents are  
7 27 contained in the court file, the mortgagee shall pay a fee of  
7 28 twenty-five dollars to the clerk of the district court. Upon  
7 29 the payment of the fee, the clerk shall make copies of the  
7 30 original loan documents for the court file, and return the  
7 31 original loan documents to the mortgagee.

7 32 2. Upon the filing of the notice of recision, the mortgage  
7 33 loan shall be enforceable according to the original terms of  
7 34 the mortgage loan and the rights of all persons with an  
7 35 interest in the property may be enforced as if the foreclosure  
8 1 had not been filed. However, any findings of fact or law  
8 2 shall be preclusive for purposes of any future action unless  
8 3 the court, upon hearing, rules otherwise and the mortgagee  
8 4 shall be permanently barred from a deficiency judgment if the  
8 5 judgment rescinded was subject to the provisions of section  
8 6 615.1. The mortgagee may charge the mortgagor shall be  
8 7 assessed for the costs, including reasonable attorney fees, of  
8 8 foreclosure and recision if provided by the mortgage agreement  
8 9 agreed to in writing by the mortgagor.

8 10 Sec. 10. NEW SECTION. 654.17B DIVESTMENT OF JUNIOR LIENS  
8 11 PURSUANT TO LOAN MODIFICATION.

8 12 1. The foreclosing mortgagee and the mortgagor, including  
8 13 any successor in interest of the original mortgagor, of a  
8 14 nonagricultural one-family or two-family dwelling occupied as  
8 15 a residence by the mortgagor may agree in writing to a  
8 16 modification of the mortgage obligation to allow the mortgagor  
8 17 to continue to reside on the property. If such a modification  
8 18 provides for a reduction of at least ten percent in the net  
8 19 present value of the indebtedness owing to the mortgagee, the  
8 20 foreclosing mortgagee and the mortgagor may move that the  
8 21 court divest any junior liens against the property. If the  
8 22 court approves divestment, the court shall order that the  
8 23 junior lienholder be served personally with copies of the loan  
8 24 modification agreement, a verified current balance of the loan  
8 25 as modified, and the court's order that the junior  
8 26 lienholder's interest in the property be divested unless the  
8 27 junior lienholder, within forty-five days of service, either  
8 28 acts pursuant to section 654.8 to obtain an assignment of the  
8 29 mortgagee's rights as modified or moves to quash the proposed  
8 30 divestment by establishing that the value of the property  
8 31 exceeds the amount of the mortgage debt prior to its  
8 32 modification. Such divestment shall prohibit the junior  
8 33 lienholder from any subsequent action to enforce the junior  
8 34 lienholder's debt against the mortgaged property, subject to  
8 35 the provisions of chapter 615, and shall not otherwise  
9 1 prejudice any personal right of action the junior lienholder  
9 2 may have to proceed against the mortgagor's other assets.

9 3 2. This section is repealed July 1, 2014.

9 4 Sec. 11. Section 655A.3, subsection 1, paragraph a, Code  
9 5 2009, is amended by adding the following new subparagraph:

9 6 NEW SUBPARAGRAPH. (4) Specify a postal or electronic mail  
9 7 address where rejection of the notice may be served.

9 8 Sec. 12. Section 655A.4, Code 2009, is amended to read as  
9 9 follows:

9 10 655A.4 SERVICE.

9 11 Notice ~~or rejection of notice~~ under this chapter shall be

9 12 served as provided in the rules of civil procedure for service  
9 13 of original notice. Rejection of notice under this chapter  
9 14 shall be served by ordinary or electronic mail addressed as  
9 15 provided in the notice, or if no address is provided, to the  
9 16 last address of the mortgagee known to the mortgagor.  
9 17 Sec. 13. Section 655A.6, Code 2009, is amended to read as  
9 18 follows:  
9 19 655A.6 REJECTION OF NOTICE.  
9 20 If either the mortgagor, or successor in interest of record  
9 21 including a contract purchaser, within thirty days of service  
9 22 of the notice pursuant to section 655A.3, files with the  
9 23 recorder of the county where the mortgaged property is  
9 24 located, a rejection of the notice reasonably identifying ~~by a~~  
9 25 ~~document reference number~~ the notice which is rejected  
9 26 together with proofs of service required under section 655A.4  
9 27 that the rejection has been served on the mortgagee, the  
9 28 notice served upon the mortgagor pursuant to section 655A.3 is  
9 29 of no force or effect.  
9 30 Sec. 14. Section 655A.8, Code 2009, is amended to read as  
9 31 follows:  
9 32 655A.8 EFFECT OF FORECLOSURE == REOPENING.  
9 33 Upon completion of the filings required under section  
9 34 655A.7 and if no rejection of notice has been filed pursuant  
9 35 to section 655A.6, then without further act or deed:  
10 1 1. The mortgagee acquires and succeeds to all interest of  
10 2 the mortgagor in the real estate.  
10 3 2. All liens which are inferior to the lien of the  
10 4 foreclosed mortgage are extinguished.  
10 5 3. The indebtedness secured by the foreclosed mortgage is  
10 6 extinguished.  
10 7 4. If, after completion of the filings required under  
10 8 section 655A.7, it appears that a junior lienholder was not  
10 9 properly served with a notice pursuant to section 655A.3, the  
10 10 mortgagee may serve the lienholder with an amended notice  
10 11 specifying the provisions of the mortgage currently in  
10 12 default. Unless the junior lienholder performs, within thirty  
10 13 days pursuant to section 655A.5, the mortgagee may file a  
10 14 supplemental affidavit indicating service and nonperformance  
10 15 to extinguish the lien.  
10 16 5. A foreclosure under this chapter shall not bar a  
10 17 mortgagee or its successor in interest from action under  
10 18 chapter 654 to resolve matters which have not been resolved  
10 19 under this chapter.  
10 20 Sec. 15. Section 655A.9, Code 2009, is amended to read as  
10 21 follows:  
10 22 655A.9 APPLICATION OF CHAPTER.  
10 23 This chapter does not apply to real estate used for an  
10 24 agricultural purpose as defined in section 535.13, or to a one  
10 25 or two family dwelling which is, at the time of the initiation  
10 26 of the foreclosure, occupied by ~~an~~ a legal or equitable  
10 27 titleholder.  
10 28 Sec. 16. EFFECTIVE DATE. The section of this Act enacting  
10 29 section 654.4B, being deemed of immediate importance, takes  
10 30 effect upon enactment.  
10 31 Sec. 17. APPLICABILITY.  
10 32 1. The section of this Act enacting section 614.18A  
10 33 applies to sheriff's deeds recorded and judgments entered on  
10 34 or after the effective date of this Act.  
10 35 2. The portion of the section of this Act amending section  
11 1 615.1, subsection 1, paragraph "a", by designating  
11 2 subparagraph (1) applies to judgments entered on or after the  
11 3 effective date of this Act.  
11 4 3. The sections of this Act enacting sections 654.1A,  
11 5 654.4A, and 654.17B and the section of this Act amending  
11 6 section 654.15B apply to all actions commenced on or after the  
11 7 effective date of this Act.  
11 8 4. The sections of this Act amending sections 655A.3,  
11 9 655A.4, 655A.6, 655A.8, and 655A.9 apply to all nonjudicial  
11 10 foreclosures of nonagricultural mortgages commenced on or  
11 11 after the effective date of this Act.  
11 12 5. The section of this Act enacting section 654.4B,  
11 13 subsection 1, and sections 626.81, 654.5, and 654.17 apply to  
11 14 judgments entered on or after the effective date of this Act.  
11 15 Sec. 18. The section of this Act amending section 655A.9  
11 16 is intended to be a continuation of the prior statute pursuant  
11 17 to section 4.10 and the amendment does not affect the prior  
11 18 operation of the statute or any prior action taken under the  
11 19 statute pursuant to section 4.13, subsection 1.  
11 20 EXPLANATION  
11 21 This bill relates to civil actions including certain  
11 22 limitations on actions, judgments, and executions, and

11 23 including actions relating to the foreclosure of real estate  
11 24 mortgages, and provides applicability provisions.

11 25 The bill provides that in an action in which the court had  
11 26 jurisdiction of the aggrieved party, a motion or other legal  
11 27 proceeding attacking the validity of the judgment or decree  
11 28 based on failure to comply with the rules of civil procedure  
11 29 relating to the entry of default judgments shall not affect  
11 30 the interests of any purchaser or mortgagee for value of the  
11 31 real property involved unless the motion or proceeding is  
11 32 initiated within 30 days after the recording of the sheriff's  
11 33 deed or within 90 days after the filing of a judgment or  
11 34 decree not providing for the issuance of a sheriff's deed.

11 35 The bill provides that, in regard to an execution on a  
12 1 judgment in a foreclosure action, a judgment entered in either  
12 2 of the following situations shall be null and void, all liens  
12 3 shall be extinguished, and no execution shall be issued for  
12 4 any purpose except as a setoff or counterclaim:

12 5 1. For a real estate mortgage, deed of trust, or real  
12 6 estate contract executed prior to July 1, 2009, an action for  
12 7 the foreclosure of a real estate mortgage, deed of trust, or  
12 8 real estate contract upon property which at the time the  
12 9 foreclosure is commenced is either used for an agricultural  
12 10 purpose or as a one-family or two-family dwelling which is the  
12 11 residence of the mortgagor, borrower, or vendee.

12 12 2. For a real estate mortgage, deed of trust, or real  
12 13 estate contract executed on or after July 1, 2009, an action  
12 14 for the foreclosure of a real estate mortgage, deed of trust,  
12 15 or real estate contract upon property which at the time of the  
12 16 execution of the mortgage, deed of trust, or real estate  
12 17 contract is either used for, or is being acquired for, an  
12 18 agricultural purpose as defined in Code section 535.13 or as a  
12 19 one-family or two-family dwelling which is the residence of  
12 20 the mortgagor, borrower, or vendee.

12 21 The bill expands the options for allowing postponements of  
12 22 a sheriff's sale to include allowing a postponement upon a  
12 23 request by a judgment creditor and also extends the number of  
12 24 allowable postponements from two postponements of not more  
12 25 than three days each to two postponements not to exceed a  
12 26 total of 60 days in the aggregate.

12 27 The bill establishes a provision preserving mortgage  
12 28 protections for a mortgagor in situations where the mortgagor  
12 29 ceases to occupy the mortgagor's residence because of the  
12 30 effects of natural disasters, injuries to the property, and  
12 31 relocations due to military service. This provision applies  
12 32 to all actions commenced on or after the effective date of the  
12 33 bill.

12 34 The bill provides specific service of process provisions  
12 35 for judgment creditors and their attorneys as well as  
13 1 executors and administrators of a decedent's estate where in  
13 2 rem relief is the only relief requested in a foreclosure  
13 3 action.

13 4 The bill provides that prior to commencing a foreclosure on  
13 5 the accelerated balance of a mortgage loan, and after  
13 6 termination of any applicable cure period, a creditor must  
13 7 give the borrower a 14-day demand for payment of the  
13 8 accelerated balance to apply for an award of attorney fees on  
13 9 the accelerated balance. The bill also requires a mortgage  
13 10 foreclosure attorney to notify a homeowner about the  
13 11 availability of counseling and mediation services as the  
13 12 attorney general may prescribe. Failure to provide such  
13 13 notice to a homeowner allows the homeowner to obtain a delay  
13 14 of the recording of the sheriff's sale or delay of the  
13 15 recording of the sheriff's deed, not to exceed 60 days, to  
13 16 obtain mortgage counseling and mediation. This provision  
13 17 takes effect upon enactment.

13 18 The bill requires courts to determine the rights of all  
13 19 persons joined as parties or receiving notices of their right  
13 20 to intervene in a foreclosure action where title issues have  
13 21 been raised by the pleadings and resolution of such issues is  
13 22 necessary to provide clear title to persons purchasing the  
13 23 land at a sheriff's sale.

13 24 The bill amends notice provisions relating to pending  
13 25 foreclosures to require a mortgagee to provide additional  
13 26 information relevant to a judgment creditor's decision to  
13 27 intervene in a foreclosure action.

13 28 The bill eliminates the requirement that the mortgagor  
13 29 consent to a rescission of a foreclosure action.

13 30 The bill eliminates deficiency judgments against the  
13 31 mortgagee if such judgments would otherwise be restricted and  
13 32 limits the assessment of costs, including reasonable attorney  
13 33 fees, of foreclosure and rescission actions to those agreed to

13 34 in writing by the mortgagor.

13 35       The bill allows first mortgage lenders to make loan  
14 1 modifications to allow the mortgagor to continue to reside in  
14 2 the mortgagor's home and to eliminate unnecessary junior  
14 3 lienholders.

14 4       The bill provides that a notice in a nonjudicial  
14 5 foreclosure shall contain a postal or electronic mail address  
14 6 where rejection of the notice may be served, provides that a  
14 7 rejection of a notice shall be served according to the rules  
14 8 of civil procedure for service of original notice, and  
14 9 eliminates the requirement that a rejection of the notice  
14 10 reference a document reference number.

14 11       The bill allows for the reopening of a nonjudicial  
14 12 foreclosure to resolve title issues where a junior lienholder  
14 13 was not properly served with a notice.

14 14       The bill prohibits the use of a nonjudicial foreclosure in  
14 15 circumstances where the real estate that is the subject of the  
14 16 foreclosure is a one-family or two-family home occupied by a  
14 17 legal titleholder. This provision applies to all nonjudicial  
14 18 foreclosures of nonagricultural mortgages commenced on or  
14 19 after the effective date of the bill.

14 20       The bill provides applicability provisions and for some  
14 21 future repeals.

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